United Nations A/C.3/59/L.75

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Fifty-ninth session
Third Committee
Agenda item 104
Right of peoples to self-determination

Azerbaijan, Bangladesh, Burkina Faso, Egypt, Eritrea, Iran (Islamic Republic of), Kuwait, Libyan Arab Jamahiriya, Malaysia, Niger, Nigeria, Pakistan and Qatar: draft resolution

Universal realization of the right of peoples to self-determination

The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,[1] as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation, adopted by the Commission on Human Rights at its sixtieth[2] and previous sessions,

[1] Resolution 2200 A (XXI), annex.

[2] See *Official Records of the Economic and Social Council, 2004, Supplement No. 3* (E/2004/23) chap. II, sect. A.

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Reaffirming its previous resolutions on the universal realization of the right of peoples to self-determination, including resolution 58/161 of 22 December 2003,

Reaffirming also its resolution 55/2 of 8 September 2000, containing the United Nations Millennium Declaration, which, inter alia, upholds the right to self-determination of peoples under colonial domination and foreign occupation,

Taking note of the report of the Secretary-General on the right of peoples to self-determination,[3]

1. *Reaffirms* that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. *Declares its firm opposition* to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. *Calls upon* those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. *Deplores* the plight of millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and honour;

5. *Requests* the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. *Requests* the Secretary-General to report on this question to the General Assembly at its sixtieth session under the item entitled "Right of peoples to self-determination".

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[3] A/59/376.

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Fifty-ninth session
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Agenda items 105 (c) and 108

Human rights questions: human rights situations and reports of special rapporteurs and representatives

Programme budget for the biennium 2004-2005

Situation of human rights in Myanmar

Programme budget implications of draft resolution A/C.3/59/L.49

Statement submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly

A. Requests contained in the draft resolution

1. Under the terms of operative paragraph 4 of draft resolution A/C.3/59/L.49, the General Assembly would request the Secretary-General:

(a) To continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and people of Myanmar, including all relevant parties to the national reconciliation process in Myanmar;

(b) To give all necessary assistance to enable his Special Envoy for Myanmar, as well as to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, to discharge their mandate fully and effectively;

(c) To report to the General Assembly at its sixtieth session and to the Commission on Human Rights at its sixty-first session on the progress made in the implementation of the resolution.

B. Relationship of the proposed requests to the medium-term plan for the period 2002-2005

2. The requests set out above relate to subprogramme 1, Prevention, control and resolution of conflicts, of programme 1, Political affairs, and subprogramme 3,

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Advisory services, technical cooperation, support to human rights fact-finding procedures and field activities, of programme 19, Human rights, of the medium-term plan for the period 2002-2005, as revised.[1]

C. Activities by which the requests would be implemented

3. In his report to the General Assembly (A/59/269), the Secretary-General indicated that the citizens of Myanmar had endured unnecessary social and economic hardship because of the absence of an all-inclusive process of democratization and national reconciliation in their country and that their predicament had been compounded by economic policies that had prevented the majority of them from improving their livelihoods. He reiterated his determination to underscore the United Nations system's parallel commitment to investing in Myanmar's long-term future, within the existing constraints, by enhancing the scale and scope of its social and humanitarian engagement with people and communities across the country. The Secretary-General pointed out that he remained committed to taking further appropriate steps to underpin progress, in partnership with the international community, in the event that sustainable progress towards democratization and national reconciliation occurred.

4. Consistent with the requests contained in operative paragraph 4 of draft resolution A/C.3/59/L.49, the good offices of the Secretary-General would be continued in 2005 in pursuit of his discussions on the situation of human rights and the restoration of democracy with the Government and people of Myanmar, as well as all relevant parties to the national reconciliation process. The good offices of the Secretary-General would be carried out through his Special Envoy for Myanmar, and the progress made in the implementation of the resolution would be reported to the General Assembly at its sixtieth session and to the Commission on Human Rights at its sixty-first session.

D. Estimated resource requirements

5. The estimated costs of continuing the good offices of the Secretary-General to facilitate the process of national reconciliation and democratization through his Special Envoy for Myanmar, as requested in paragraphs 4 (a) and (b) of draft resolution A/C.3/59/L.49, for a one-year period, from 1 January to 31 December 2005, amount to $252,400 net ($294,900 gross). Of that amount, $6,200 would be met from the unencumbered balance against the appropriation for 2004. Thus the overall requirements for the Special Envoy for 2005, after taking into account the unencumbered balance, amount to $246,200 net ($288,700 gross).

6. Those resources would cover the salaries of the Special Envoy, to be engaged on a when-actually-employed basis, and of a local staff member who would provide support to the Special Envoy; the official travel of the Special Envoy to Myanmar and neighbouring countries, as well as to Europe and North America, including United Nations Headquarters; the services of a consultant; and miscellaneous services in support of the mission. Other substantive and administrative support would be provided to the Special Envoy by the Department of Political Affairs. (For a cost breakdown of those activities, see the annex to the present statement.)

7. With regard to the request contained in paragraph 4 (b) of the draft resolution regarding assistance to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, the mandate of the Special Rapporteur falls under the category of activities considered to be of a perennial nature. Provisions for activities of this nature have already been included in the programme budget for the current biennium under section 24, Human rights (A/58/6 (Sect. 24)).

E. Action required by the General Assembly

8. Should the General Assembly adopt draft resolution A/C.3/59/L.49, a total of $252,400 net ($294,900 gross) would be required for the period from 1 January to 31 December 2005 for the continuation of the good offices of the Secretary-General relating to the situation in Myanmar, of which $6,200 would be met from the existing appropriation. Thus the additional resource requirements would amount to $246,200 net ($288,700 gross).

Notes

[1] *Official records of the General Assembly, Fifty-seventh Session, Supplement No. 6* (A/57/6/Rev.1).

Annex

Breakdown of costs associated with draft resolution A/C.3/59/L.49

Civilian personnel costs

Estimate: $102,600

1. The provision of $102,600 in general temporary assistance would cover the salary of the Special Envoy of the Secretary-General at the Under-Secretary-General level on a when-actually-employed basis for a maximum period of 210 days in 2005 at the daily rate of $477, and the salary of one General Service (Local level) staff member for an aggregate period of three months to assist the Special Envoy as and when required.

Operational costs

Estimate: $149,800

Consultants

2. In carrying out the good offices role, the Special Envoy would require the services of consultants to analyse the implications of the seven-step road map announced by the Government of Myanmar in August 2003, with emphasis on the legal procedures and guidelines for the reconvening of the National Convention and the drafting of a new Constitution, to study other road maps suggested by various outside parties for the democratic transition of Myanmar, and to formulate recommendations that the Special Envoy can present to the Government of Myanmar and other parties involved in order to facilitate the process of democratic transition. Accordingly, an amount of $48,500 is requested to provide for the fees and travel of a consultant for an aggregate period of six months.

Official travel

3. A provision of $95,600 is made for the official travel of the Special Envoy to United Nations Headquarters, Myanmar, other countries in the region, Europe and North America for briefings, representation and consultations. In addition, provision has been made for the travel of a political affairs officer to travel with the Special Envoy on his missions as required. The requirements for travel, including airfare, daily subsistence allowance and terminal expenses, have been estimated on the basis of 23 individual trips of varying duration.

Communications

4. An amount of $2,100 is requested to cover the cost of commercial communications, including long-distance telephone calls, facsimile charges, diplomatic pouch and postage.

Other supplies, services and equipment

5. Provision in the amount of $3,600 is made for miscellaneous office supplies and services.

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Agenda item 105 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Cuba: amendments to draft resolution A/C.3/59/L.62

Enhancing the role of regional, subregional and other organizations and arrangements in promoting and consolidating democracy

1. After the existing preambular paragraph, insert four new preambular paragraphs reading:

> "*Reaffirming* the right of the peoples to self-determination by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development, as enshrined in the Charter of the United Nations and the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights;
>
> "*Reaffirming also* our commitment, expressed in the United Nations Millennium Declaration, to work collectively for the promotion of democracy and for more inclusive political processes allowing genuine participation by all citizens in all countries;
>
> "*Recognizing and respecting* the rich and diverse nature of the community of the world's democracies, which arises out of all the world's social, cultural and religious beliefs and traditions, and recognizing also that while all democracies share common features, there is no one model of democracy;
>
> "*Convinced* that within the international cooperation for the promotion of democracy, only those processes established on the basis of respect for the principles enshrined in the Charter of the United Nations and of transparency, impartiality, non-selectivity and inclusiveness can contribute to the attainment of the goal of consolidating democracy at the national, regional and international levels".

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2. Replace operative paragraph 1 with the following text:

"*Declares* that the essential elements of democracy include respect for all human rights and fundamental freedoms, inter alia, freedom of association and peaceful assembly and of expression and opinion, and the right to take part in the conduct of public affairs, directly or through freely chosen representatives, to vote and to be elected at genuine periodic free elections by universal and equal suffrage and by secret ballot guaranteeing the free expression of the will of the people and people's participation and control, as well as appropriate and effective accessible, representative and accountable democratic institutions, respect for the rule of law, the separation of powers, the independence of the judiciary, transparency and accountability in public administration and free, fair, socially responsible, independent and pluralistic media".

3. After operative paragraph 3, insert a new operative paragraph reading:

"*Condemns*, in this regard, any politically motivated attempt or misuse of the international cooperation for the promotion of democracy, including the marginalization or exclusion of Member States of the United Nations from full participation in and equal opportunities of membership in the intergovernmental bodies of regional, subregional and other organizations and arrangements".

4. Replace operative paragraph 5 with the following text:

"*Reaffirms* that democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing, that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives and in that context, that the promotion and protection of human rights and fundamental freedoms at the national, regional and international levels should be universal and conducted without conditions attached".

5. In operative paragraph 8, replace the words "as well as relevant non-governmental organizations" with the words "as well as non-governmental organizations, while respecting their mandates and the national laws".

6. In operative paragraph 14, after the words "to identify, develop and coordinate", add the words: "in accordance with its mandates and the purposes and principles enshrined in the Charter of the United Nations".

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Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions

Belgium, Canada, Croatia, Cyprus, Denmark, Finland, Ireland, Italy, Japan, Lithuania, Luxembourg, Malta, Netherlands, Norway, Portugal, South Africa,* Sweden, the former Yugoslav Republic of Macedonia and United Kingdom of Great Britain and Northern Ireland: draft resolution

Assistance to refugees, returnees and displaced persons in Africa

The General Assembly,

Recalling its resolution 58/149 of 22 December 2003,

Recalling also the Organization of African Unity Convention governing the specific aspects of refugee problems in Africa of 1969[1] and the African Charter on Human and Peoples' Rights,[2]

Reaffirming that the 1951 Convention relating to the Status of Refugees,[3] together with the 1967 Protocol thereto,[4] as complemented by the Organization of African Unity Convention of 1969, remains the foundation of the international refugee protection regime in Africa,

1. *Takes note* of the reports of the Secretary-General[5] and the United Nations High Commissioner for Refugees;[6]

2. *Notes* the need for African States to address resolutely the root causes of all forms of forced displacement in Africa and to foster peace, stability and prosperity throughout the African continent so as to forestall refugee flows, and

* On behalf of the African Group.
[1] United Nations, *Treaty Series*, vol. 1001, No. 14691.
[2] Ibid., vol. 1520, No. 26363.
[3] Ibid., vol. 189, No. 2545.
[4] Ibid., vol. 606, No. 8791.
[5] A/59/317.
[6] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 12* (A/59/12).

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calls upon the international community, including States, the Office of the United Nations High Commissioner for Refugees, and other relevant United Nations organizations, within their respective mandates, to take concrete action to meet the protection and assistance needs of refugees, returnees and displaced persons and to contribute generously to projects and programmes aimed at alleviating their plight and facilitating durable solutions for refugees and displaced persons;

3. *Welcomes* decision EX/CL/Dec.127 (V) on the situation of refugees, returnees and displaced persons in Africa adopted by the Executive Council of the African Union at its fifth ordinary session, held at Addis Ababa from 30 June to 3 July 2004;

4. *Takes note* of the conference organized by the African Parliamentary Union and the United Nations High Commissioner for Refugees on "Refugees in Africa: the challenge of protection and solutions" held in Benin from 1 to 3 June 2004;

5. *Expresses its appreciation* for the leadership shown by the United Nations High Commissioner for Refugees since assuming office in January 2001, and commends the Office of the United Nations High Commissioner for Refugees for its ongoing efforts, with the support of the international community, to assist African countries of asylum and to respond to the protection and assistance needs of refugees, returnees and displaced persons in Africa;

6. *Encourages* the Office of the United Nations High Commissioner for Refugees to continue to cooperate with the Office of the United Nations High Commissioner for Human Rights and the African Commission on Human and Peoples' Rights, in conjunction with relevant agencies of the United Nations system and intergovernmental organizations, within their respective mandates, in the promotion and protection of the human rights and fundamental freedoms of refugees, returnees and displaced persons in Africa, and welcomes in this regard the appointment by the African Commission on Human and Peoples' Rights of the Special Rapporteur on refugees and internally displaced persons in Africa;

7. *Recognizes* that, among refugees, returnees and internally displaced persons, women and children are the majority of the population affected by conflict and bear the brunt of atrocities and other consequences of conflict, and in this regard takes note of the report of the Secretary-General on women and peace and security[7] presented to and discussed by the Security Council;

8. *Reiterates* the importance of full and effective implementation of standards and procedures to better address the specific protection needs of refugee children and adolescents and to safeguard rights and, in particular, to ensure adequate attention to unaccompanied and separated children and former child soldiers in refugee settings, as well as in the context of voluntary repatriation and reintegration measures;

9. *Notes with great concern* that, despite all the efforts made so far by the United Nations, the African Union and others, the situation of refugees and displaced persons in Africa remains precarious, calls upon States and other parties to armed conflict to observe scrupulously the letter and the spirit of international humanitarian law, bearing in mind that armed conflict is one of the principal causes

[7] S/2004/814.

of forced displacement in Africa, and welcomes in this regard the appointment by the African Union of the Special Representative on the protection of civilians in armed conflicts;

10. *Recognizes* the importance of early registration and effective registration systems and censuses as a tool of protection and as a means to enable the quantification and assessment of needs for the provision and distribution of humanitarian assistance and to implement appropriate durable solutions;

11. *Recognizes* the need to strengthen the capacity of States to provide assistance to and protection for refugees, returnees and displaced persons, and calls on the international community, within the context of burden and responsibility sharing, to increase its material, financial and technical assistance in countries affected by refugees, returnees and displaced persons, to simultaneously address the inadequacies of existing assistance arrangements and to support initiatives in this regard;

12. *Reaffirms* that host States have the primary responsibility to ensure the civilian and humanitarian character of asylum, and calls upon States, in cooperation with international organizations, within their mandates, to take all necessary measures to ensure respect for the principles of refugee protection and, in particular, to ensure that the civilian and humanitarian nature of refugee camps is not compromised by the presence or the activities of armed elements or used for purposes that are incompatible with their civilian character;

13. *Condemns* all acts that pose a threat to the personal security and well-being of refugees and asylum-seekers, such as refoulement, unlawful expulsion and physical attacks, deplores, in particular, the armed attacks that took place in the Gatumba transit centre, in Burundi in August 2004, calls upon States of refuge, in cooperation with international organizations, where appropriate, to take all necessary measures to ensure respect for the principles of refugee protection, including the humane treatment of asylum-seekers, notes with interest that the United Nations High Commissioner for Refugees has continued to take steps to encourage the development of measures to better ensure the civilian and humanitarian character of asylum, and encourages the High Commissioner to continue these efforts in consultation with States and other relevant actors;

14. *Deplores* the deaths, injuries and other forms of violence sustained by staff members of the Office of the High Commissioner and other humanitarian organizations, urges States, parties to conflict and all other relevant actors to take all necessary measures to protect activities related to humanitarian assistance, prevent attacks on and kidnapping of national and international humanitarian workers and ensure their safety and security, calls upon States to investigate fully any crime committed against humanitarian personnel and to bring to justice persons responsible for such crimes, and calls upon organizations and aid workers to abide by the national laws and regulations of the countries in which they operate;

15. *Calls upon* the Office of the High Commissioner, the African Union, subregional organizations and all African States, in conjunction with agencies of the United Nations system, intergovernmental and non-governmental organizations and the international community, to strengthen and revitalize existing partnerships and forge new ones in support of the international refugee protection system, and

welcomes, in this regard, the High Commissioner for Refugees joining the Joint United Nations Programme on HIV/AIDS in 2004 as a co-sponsor;

16. *Calls upon* the Office of the High Commissioner, the international community and other concerned entities to intensify their support to African Governments through appropriate capacity-building activities, including training of relevant officers, disseminating information about refugee instruments and principles, providing financial, technical and advisory services to accelerate the enactment or amendment and implementation of legislation relating to refugees, strengthening emergency response and enhancing capacities for the coordination of humanitarian activities, and welcomes in this regard the conclusion on international cooperation and burden and responsibility sharing in mass influx situations adopted by the Executive Committee of the Programme of the United Nations High Commissioner for Refugees at its fifty-fifth session;[8]

17. *Reaffirms* the right of return and the principle of voluntary repatriation, appeals to countries of origin and countries of asylum to create conditions that are conducive to voluntary repatriation, and recognizes that, while voluntary repatriation remains the pre-eminent solution, local integration and third-country resettlement, where appropriate and feasible, are also viable options for dealing with the situation of African refugees who, owing to prevailing circumstances in their respective countries of origin, are unable to return home;

18. *Notes with satisfaction* the voluntary return of thousands of refugees to their countries of origin, and welcomes in this regard the conclusion on legal safety issues in the context of voluntary repatriation of refugees adopted by the Executive Committee of the Programme of the United Nations High Commissioner for Refugees at its fifty-fifth session;[9]

19. *Reaffirms* that voluntary repatriation should not necessarily be conditioned on the accomplishment of political solutions in the country of origin in order not to impede the exercise of the refugees' right to return, and recognizes that the voluntary repatriation and reintegration process is normally guided by the conditions in the country of origin, in particular the condition that voluntary repatriation can be accomplished in conditions of safety and dignity;

20. *Welcomes* the development by the United Nations High Commissioner for Refugees, in cooperation with other United Nations agencies and development actors, of the framework for durable solutions, aimed at promoting lasting solutions, particularly in protracted refugee situations, including the "4Rs" approach (repatriation, reintegration, rehabilitation and reconstruction) to sustainable return;

21. *Appeals* to the international community to respond positively, in the spirit of solidarity and burden and responsibility sharing, to the third-country resettlement needs of African refugees, and in this regard notes with interest the development of a multilateral framework of understandings on resettlement in the context of the High Commissioner's Convention Plus initiative;[10]

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[8] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 12* (A/59/12/Add.1), chap. III.B.

[9] Ibid., sect. C.

[10] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 12* (A/59/12), chap. III, para. 23.

22. *Calls upon* the international donor community to provide financial and material assistance that allows for the implementation of community-based development programmes that benefit both refugees and host communities, as appropriate, in agreement with host countries and consistent with humanitarian objectives;

23. *Calls upon* the international donor community to provide material and financial assistance for the implementation of programmes intended for the rehabilitation of the environment and infrastructure affected by refugees in countries of asylum;

24. *Urges* the international community, in a spirit of international solidarity and burden-sharing, to continue to fund generously the refugee programmes of the Office of the High Commissioner and, taking into account the substantially increased needs of programmes in Africa, to ensure that Africa receives a fair and equitable share of the resources designated for refugees;

25. *Expresses grave concern* about the plight of internally displaced persons in Africa, calls upon States to take concrete action to pre-empt internal displacement and to meet the protection and assistance needs of internally displaced persons, recalls in that regard the Guiding Principles on Internal Displacement,[11] and urges the international community, led by relevant United Nations organizations, to contribute generously to national projects and programmes aimed at alleviating the plight of internally displaced persons;

26. *Invites* the Representative of the Secretary-General on internally displaced persons to continue his ongoing dialogue with Member States and the intergovernmental and non-governmental organizations concerned, in accordance with his mandate, and to include information thereon in his reports to the Commission on Human Rights and the General Assembly;

27. *Requests* the Secretary-General to submit a comprehensive report on assistance to refugees, returnees and displaced persons in Africa to the General Assembly at its sixtieth session, taking fully into account the efforts expended by countries of asylum, under the item entitled "Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions", and to present an oral report to the Economic and Social Council at its substantive session of 2005.

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[11] E/CN.4/1998/53/Add.2, annex.

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Agenda item 105 (b)
Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Algeria, Bahrain, Bangladesh, China, Djibouti, Egypt, Indonesia, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Malaysia, Mauritania, Morocco, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Sudan, Syrian Arab Republic, United Arab Emirates, United Republic of Tanzania and Zimbabwe: amendments to draft resolution A/C.3/59/L.57

Extrajudicial, summary or arbitrary executions

1. In the third preambular paragraph, replace the words "Mindful of" with "Noting".

2. In operative paragraph 3, replace the words "mass murder, ethnic cleansing or genocide" with the words "crimes against humanity or genocide, as defined in the Convention on the Prevention and Punishment of the Crime of Genocide".

3. In operative paragraph 7, replace the words "in which the death penalty has not been abolished" with the words "in order to prevent extrajudicial, summary or arbitrary executions".

4. Replace operative paragraph 8 (c) with the following text:

> "*Urges* all Governments to undertake all necessary and possible measures to prevent the occurrence of extrajudicial, summary or arbitrary executions, including those occurring in custody;"

5. Replace operative paragraph 8 (e) with the following text:

> "*Reaffirms* the obligation of Governments to ensure the protection of the right to life of all persons under their jurisdiction, and calls upon Governments concerned to investigate promptly and thoroughly all cases of extrajudicial, summary or arbitrary executions, including for any discriminatory reasons, to bring those responsible to justice before a competent, independent and impartial judiciary and to ensure that such executions are neither condoned nor sanctioned by government officials or personnel;"

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6. Replace operative paragraph 11 with the following text:

"*Takes note* of the interim report of the Special Rapporteur to the General Assembly, while being mindful that reports should remain within the mandate of the Special Rapporteur;"

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Human rights questions: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Algeria, Bahrain, Bangladesh, China, Djibouti, Egypt, Indonesia, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Malaysia, Mauritania, Morocco, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Sudan, Syrian Arab Republic, United Arab Emirates, United Republic of Tanzania and Zimbabwe: amendments to draft resolution A/C.3/59/L.57/Rev.1

Extrajudicial, summary or arbitrary executions

1. In operative paragraph 7, replace the words "in which the death penalty has not been abolished" with the words "in order to prevent extrajudicial, summary or arbitrary executions".

2. Replace operative paragraph 8 (c) with the following text:

"*Reaffirms* the obligation of Governments to ensure the protection of the right to life of all persons under their jurisdiction, and calls upon Governments concerned to investigate promptly and thoroughly all cases of extrajudicial, summary or arbitrary executions, including for any discriminatory reasons, to bring those responsible to justice before a competent, independent and impartial judiciary and to ensure that such executions are neither condoned nor sanctioned by government officials or personnel".

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Third Committee
Agenda item 101
Promotion and protection of the rights of children

United States of America: amendments to draft resolution A/C.3/59/L.29/Rev.1

Rights of the child

1. Replace the second preambular paragraph with the following text:

"*Emphasizing* that together the Convention on the Rights of the Child as well as its Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, the International Covenant on Civil and Political Rights, the Convention concerning Minimum Age for Admission to Employment, 1973 (Convention No. 138) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182) of the International Labour Organization and the 1951 Convention Relating to the Status of Refugees, adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its thirty-seventh ordinary session, held at Lusaka from 9 to 11 July 2001, and its 1967 Protocol contain a comprehensive set of international legal standards for the protection and well being of children, and reaffirming that the best interests of the child shall be a primary consideration in all actions concerning children,"

2. Replace operative paragraph 2 with the following text:

"*Urges* States that have not yet done so to consider as a matter of priority signing and ratifying or acceding to the Convention on the Rights of the Child and its Optional Protocols, and urges States Parties to implement them fully, while stressing that the implementation of the Convention and its Optional Protocols and the achievement of the goals of the World Summit for Children and the special session of the General Assembly on children are mutually reinforcing;"

3. Delete operative paragraphs 4 and 9.

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4. Replace operative paragraph 12 (c) with the following text:

"Guaranteeing the right of a child whose parents reside in different States to maintain, on a regular basis, save in exceptional circumstances, personal relations and direct contact with both parents by providing enforceable means of access and visitation in both States and by respecting the principle that both parents have common responsibilities for the upbringing and development of their children;"

5. Insert two subparagraphs after new operative paragraph 12 (d):

"(e) Ensuring as far as possible the right of the child to know and be cared for by his or her parents, and ensuring that a child shall not be separated from his or her parents against their will, except when the competent authorities, subject to judicial review, determine, in accordance with applicable law and procedures, and the participation of all interested parties, that such separation is necessary for the best interests of the child;"

"(f) Respecting the right of a child who is separated from one or both parents residing in the same State to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests, and, where such separation results from action initiated by a State, that State shall, upon request, provide all appropriate interested parties with the essential information concerning the whereabouts of the absent member(s) of the family, unless this information would be detrimental to the well-being of the child;"

6. Replace operative paragraph 16 with the following text.

"*Calls upon* all States to address cases of international abduction of children, and encourages States to engage in multilateral and bilateral cooperation to ensure, inter alia, the return of the child to the country where he or she resided immediately before the removal or retention and, in this respect, to pay particular attention to cases of international abduction of children by one of their parents or other relatives;"

7. In operative paragraph 18, after the words "highest attainable standard of health", insert the words "that is progressively realized".

8. In operative paragraph 21 (a), before the words "affirmative action", insert the words "appropriate forms of".

9. Replace operative paragraph 23 (b) with the following text:

"To take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity;"

10. Replace operative paragraph 25 with the following text:

"*Calls upon* all States to end impunity for perpetrators of crimes committed against children, takes note of the entry into force of the Rome Statute of the International Criminal Court, and notes in particular the inclusion therein, as a war crime, of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international conflicts;"

11. In operative paragraph 38 (a): delete the text after "24 May 1989".

12. In operative paragraph 41 (b): after the words "where the crime was committed," insert "or if jurisdiction exists under applicable law,".

13. In operative paragraph 47: at end of the paragraph, add the words "contrary to international law".

14. Delete operative paragraph 51 (c).

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Promotion and protection of the rights of children

Rights of the child

Programme budget implications of draft resolution A/C.3/59/L.29/Rev.1

Statement submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly

Summary

By paragraph 51 (c) of draft resolution A/C.3/59/L.29/Rev.1, the General Assembly would decide to request the Special Representative of the Secretary-General for Children and Armed Conflict to continue to submit reports to the General Assembly and the Commission on Human Rights and to ensure that they contain relevant, accurate and objective information on the situation of children affected by armed conflict, taking into account the views of Member States and the outcome document adopted by the General Assembly at its special session on children and bearing in mind existing mandates and reports of relevant bodies.

The related requirements for the Office of the Special Representative to implement its mandates for 2005 are estimated at $1,070,000 (gross). It is anticipated that the balance of unearmarked extrabudgetary resources, as at 31 December 2004, would amount to $150,000. It is not possible to determine, at this stage, whether the Office would have adequate resources to operate until 31 December 2005 without complementary regular budget funds. Contingent upon the availability of additional voluntary contributions, an additional amount of $920,000 (gross) may be required from the regular budget of the United Nations to maintain the operations of the Office in 2005.

The statement of programme budget implications of paragraphs 7 and 47 (d) of draft resolution A/C.3/59/L.29/Rev.1 is being issued as an addendum to the present statement.

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I. Requests contained in the draft resolution

1. Under operative paragraph 51 (c) of draft resolution A/C.3/59/L.29/Rev.1, the General Assembly would decide to request the Special Representative of the Secretary-General for Children and Armed Conflict to continue to submit reports to the General Assembly and the Commission on Human Rights and to ensure that they contain relevant, accurate and objective information on the situation of children affected by armed conflict, taking into account the views of Member States and the outcome document adopted by the General Assembly at its special session on children and bearing in mind existing mandates and reports of relevant bodies.

II. Background

2. In its resolution 51/77 of 12 December 1996, the General Assembly recommended that the Secretary-General appoint for a period of three years a Special Representative on the impact of armed conflict on children. The Assembly also called upon States and institutions concerned to provide voluntary contributions in support of the work of the Special Representative. The Secretary-General appointed the Special Representative for Children and Armed Conflict in September 1997. The scope of responsibilities of the Special Representative was described in documents A/51/306 and Add.1.

3. On 6 January 1998, the Secretary-General established the Trust Fund for Children and Armed Conflict. As start-up contributions to the Trust Fund, the United Nations Children's Fund and the Office of the United Nations High Commissioner for Refugees provided $100,000 and $50,000, respectively. Since its inception, the Office of the Special Representative has been financed by voluntary contributions.

4. In paragraph 37 of its resolution 51/77, the General Assembly requested the Special Representative to submit to the General Assembly and the Commission on Human Rights an annual report containing relevant information on the situation of children affected by armed conflict, bearing in mind existing mandates and reports of relevant bodies. Since 1996, in a number of its resolutions, the General Assembly has reiterated this request, while welcoming the continuing support for and voluntary contributions to the work of the Special Representative in the fulfilment of his mandate.

5. In its resolutions 54/149 of 17 December 1999, and 57/190 of 18 December 2002, the General Assembly recommended that the Secretary-General extend the mandate of the Special Representative for a further period of three years. In paragraph 3 of resolution 57/190, the Assembly also requested the Secretary-General to undertake a comprehensive assessment of the scope and effectiveness of the United Nations system response, including recommendations for strengthening, mainstreaming, integrating and sustaining those activities.

6. In its resolution 58/245 of 23 December 2003, the General Assembly decided that the activities under the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict would be supported through regular budget funding. Before the adoption of that resolution, the Fifth Committee had decided to inform the General Assembly that, should it adopt the resolution, any

appropriations necessary would be considered in the context of the report to be submitted by the Secretary-General in pursuance of section V of General Assembly resolution 57/190 (see A/58/652).

7. The report of the Secretary-General on the comprehensive assessment of the United Nations system response to children affected by armed conflict (A/59/331) was issued on 3 September 2004. In that report, the Secretary-General provided, inter alia, recommendations for strengthening the United Nations system response to children affected by armed conflict.

III. Current administrative and financial situation

8. As stated in paragraph 70 of the above-mentioned report of the Secretary-General, more recently, donors have not been contributing funds and the available resources are expected to be exhausted by the end of 2004. Therefore, it is not expected that sufficient extrabudgetary resources will be available to maintain the Office of the Special Representative beyond 31 December 2004.

9. Based on the most recent expenditure data, it is estimated that, at the end of 2004, the balance of extrabudgetary resources for children and armed conflict activities would amount to approximately $690,000, including some $540,000 contributed and earmarked for specific activities. The balance of unearmarked resources as at 31 December 2004 would amount to $150,000. It is not possible at this stage to provide a definitive estimate of voluntary contributions for 2005. It could, however, be determined that the Office would not have sufficient extrabudgetary resources to operate through 2005.

IV. Activities by which the proposed requests would be implemented

10. The continuation of reporting to the General Assembly and the Commission on Human Rights on the situation of children affected by armed conflict, requested in paragraph 51 (c) of draft resolution A/C.3/59/L.29/Rev.1, falls under the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict, namely paragraph 37 of General Assembly resolution 51/77. Since the Secretary-General, in accordance with General Assembly resolution 57/190, extended the mandate of the Special Representative for a further period of three years, necessary support is to be provided for effective performance of his mandate for one more year. In this regard, necessary resources should be identified in order to further maintain in 2005 the Office of the Special Representative, which has been responsible, inter alia, for the preparation of these reports for the past six years.

V. Administrative and financial arrangements and indication of additional requirements

11. The annual cost of the activities of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict is estimated at $950,000 net of staff assessment. In accordance with the new streamlined structure specified in the report of the Secretary-General on the comprehensive assessment (A/59/331),

the Office would comprise, in addition to the post of the Special Representative, a staff of four Professionals, including a Senior Adviser (P-5); two Professional staff (P-4) responsible for day-to-day relations with United Nations entities and non-governmental organizations, as well as for assisting in the preparation of reports; one Professional staff member (P-3) responsible for outreach and public information and three support staff (1 General Service (Principal level) and 2 General Service (Other level)). The cost of these eight temporary posts would amount to $750,000. The Office of the Special Representative would also be provided with adequate resources to cover field visits and other cooperation and coordination trips, consultancies and other office operations, commensurate with the streamlined structure and functions ($200,000). Table 1 below provides information on the estimated resource requirements by object of expenditure.

Table 1
Resource requirements for 2005

	United States dollars
Staff salaries	750 000
Supplementary conference services	10 000
Other personnel services	8 000
Consultants and experts	55 000
Travel	45 000
Contractual services	30 000
Hospitality	2 000
Operating expenses	25 000
Supplies and materials	5 000
Furniture and equipment	20 000
Total	**950 000**

12. The balance of unearmarked extrabudgetary resources of $150,000 indicated in paragraph 9 above would be sufficient to cover the operational requirements of the Office, such as consultancies, travel, contractual services and part of the operating expenses. In order to maintain the Office through December 2005, the additional provision of $800,000 (net) would need to be funded from the regular budget for the biennium 2004-2005. In addition, it is estimated that $120,000 would be required for staff assessment, to be offset by the same amount under income from staff assessment. Any possibility of further reducing the proposed regular budget financing through additional extrabudgetary resources could only be defined at a later stage, upon availability of further information on potential sources of voluntary contributions. Subject to the review of the mandate of the Special Representative by the General Assembly at its sixtieth session, funding of the Office beyond 2005 would be contingent upon availability of voluntary contributions.

VI. Potential for absorption in the biennium 2004-2005

13. There are no resources provided under the proposed programme budget for the biennium 2004-2005 that could be made available for the support of the operations of the Office of the Special Representative of the Secretary-General for Children and Armed Conflict in the biennium 2004-2005. Any amount that the General Assembly may decide to allocate to support the Office of the Special Representative would need, therefore, to be provided through an additional appropriation for the biennium 2004-2005 in the context of operations of the contingency fund.

VII. Contingency fund

14. It will be recalled that, under the procedures established by the General Assembly in its resolutions 41/213 of 19 December 1986 and 42/211 of 21 December 1987, a contingency fund is established for each biennium to accommodate additional expenditure derived from legislative mandates not provided for in the programme budget. Under this procedure, if additional expenditure were proposed that exceeded the resources available from the contingency fund, the activities concerned would be implemented only through the redeployment of resources from low-priority areas or the modification of existing activities. Otherwise, such additional activities would have to be deferred to a later biennium.

VIII. Summary

15. **Should the General Assembly adopt draft resolution A/C.3/59/L.29/Rev.1, additional resource requirements of $920,000 (gross), relating to the terms of paragraph 51 (c) of the draft resolution, would arise under the programme budget for the biennium 2004-2005. This would represent a charge against the contingency fund and, as such, would require a related increase in appropriations for the biennium 2004-2005.**

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Statement submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly

Addendum

I. Introduction

1. Under the terms of operative paragraph 9 of draft resolution A/C.3/59/L.29/Rev.1, the General Assembly would welcome the efforts of the Committee on the Rights of the Child to reform its working methods so as to consider the reports of States parties in a timely manner, including by the proposal to work in two chambers, as an exceptional and temporary measure, for a period of two years, in order to clear the backlog of reports, taking due account of equitable geographical distribution, and would urge the Committee to continue to review its working methods in order to enhance its efficiency and to assess progress after two years, also taking into account the wider context of treaty body reform.

2. The related decision of the Committee on the Rights of the Child is contained in its report to the General Assembly at its fifty-ninth session.[1] Under the terms of its decision, the Committee will consider the reports of States parties in two parallel chambers, each consisting of nine members of the Committee, taking due account of equitable geographical distribution, thereby increasing the number of States parties' reports to be examined from 27 to 48 a year.

3. At its thirty-seventh session, in September 2004, the Committee reaffirmed its decision adopted at its thirty-fourth session and agreed that it should be

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implemented from the pre-sessional working group for its forty-first session which would take place from 3 to 7 October 2005. During 2006, the Committee would meet for two weeks of each three-week session in parallel working groups and in parallel working groups for the duration of each of its three one-week pre-sessional working groups.

4. In paragraph 51 (d) of the draft resolution, the General Assembly would decide to invite the Chairman of the Committee on the Rights of the Child to present an oral report on the work of the Committee to the General Assembly at its sixtieth session.

II. Relationship of the proposed request to the medium-term plan for the period 2002-2005 and the programme budget for the biennium 2004-2005

5. The activities to be carried out would relate to programme 19, Human rights, of the medium-term plan for the period 2002-2005 and section 24, Human rights, of the programme budget for the biennium 2004-2005.

III. Modification of the approved programme budget for the biennium 2004-2005

6. In order to reflect the provisions of draft resolution A/C.3/59/L.31, the narrative of subprogramme 2, Supporting human rights bodies and organs, of section 24, Human rights, of the programme budget for the biennium 2004-2005, paragraph 24.43 (viii), Committee on the Rights of the Child, would be modified to read as follows:

"(a) Substantive servicing of meetings: pre-sessional working group (70)"

IV. Estimates of resource requirements

7. The implementation of the request contained in operative paragraph 9 of the draft resolution would entail requirements for the biennium 2004-2005 as detailed in the table below. These requirements would need to be met through additional appropriations by the General Assembly.

Additional regular budget requirements

(United States dollars)

	2005	*2006*
Section 2. General Assembly affairs and conference services		
Conference services	484 900	3 878 700
Section 29E. Administration, Geneva		
Sound Technician	2 400	21 600
Section 24. Human rights		
General temporary assistance	214 900	214 900
Grand total	**702 200**	**4 115 200**

8. The total full cost of the additional regular budget requirements for 2006 is $4,115,200, as shown in the table above. It is anticipated that these requirements will be included in the proposed programme budget for the biennium 2006-2007.

9. The implementation of the request contained in operative paragraph 51 (d) of the draft resolution would entail a requirement of $3,000. It is envisaged that this requirement would be funded from extrabudgetary resources.

V. Contingency fund

10. It will be recalled that under the procedure established by the General Assembly in its resolution 41/213 of 19 December 1986, a contingency fund is established each biennium to accommodate additional expenditures derived from the legislative mandates not provided for in the approved programme budget. Under that procedure, if additional expenditures are proposed that exceed the resources available from the contingency fund, the activities concerned can be implemented only through the redeployment of resources available from low-priority areas or the modification of existing activities. Otherwise, such additional activities would have to be deferred to a later biennium.

11. It is not possible at this stage to identify activities under section 2, General Assembly affairs and conference services, section 24, Human rights, and section 29E, Administration, Geneva, that could be terminated, deferred, curtailed or modified during the current biennium in order to meet the additional requirements of $702,200.

VI. Summary

12. **Adoption of General Assembly draft resolution A/C.3/59/L.29/Rev.1 would give rise to additional requirements of $702,200 pertaining to the terms of paragraph 9 of the draft resolution, in addition to the resources initially appropriated for the biennium 2004-2005. This additional provision would represent a charge against the contingency fund.**

13. **The requirements of $4,115,200 for 2006 will be included in the proposed programme budget for the biennium 2006-2007.**

14. **In summary, should the General Assembly adopt draft resolution A/C.3/59/L.29/Rev.1, additional requirements totalling $1,622,200 (gross) would arise under the programme budget for 2004-2005 as described below:**

(a) Statement of programme budget implications with respect to children and armed conflict (A/C.3/59/L.82)	**$920 000[a]**
(b) The present statement of programme budget implication with respect to the Committee on the Rights of the Child	**$702 200**
Total	**$1 622 200**

[a] Details of this already provided in A/C.3/59/L.82.

Notes

[1] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 41* (A/59/41), para. 26; see also chap. I.C.

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Delete operative paragraph 9 and *replace* with the following paragraph:

"9. *Notes* the Committee's ongoing efforts to reform its working methods so as to consider reports of States parties in a timely manner;"

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